

Public perceptions of responsibility and liability in the licensed drinking environment

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Abstract

This study reports the results of a survey conducted in Perth (Western Australia) to assess public perceptions of the concepts of server responsibility and server liability. Eleven hundred and sixty persons aged 16 and over were asked if they thought licensees and barstaff should be held partly responsible when someone becomes intoxicated on licensed premises, or licensees and barstaff should be partly liable for injuries caused by an intoxicated person after leaving licensed premises. Results indicate that, on average, few people agreed to either proposition, despite an overwhelming majority believing that continuing to serve an intoxicated person increases the risk of an accident. However, when analysed by category of respondent, non-drinkers and persons aged over 30 were significantly more likely to agree with licensees and barstaff being partly responsible for someone becoming intoxicated, and for them to be partly liable in the case of an accident involving an intoxicated customer. The results of this survey indicate the need for education programmes to convince the public that excessive alcohol consumption and the resulting harm is not merely the responsibility of the individuals concerned, but is also the responsibility of those groups and individuals involved in the promotion, marketing and sale of alcohol. We suggest that such education campaigns might best be targeted at those groups where least support was found, young drinkers (18-24 years) and the servers of alcohol. [Lang, E, Stockwell, T, Rydon, P & Lockwood, A. Public perceptions of responsibility and liability in the licensed drinking environment. *Drug Alcohol Rev* 1993;12:13-22.]

Key words: alcohol use; attitudes; Australia; legal aspects; liquor laws; research; surveys; Western Australia.

Introduction

In any democratic society, especially a society with such a deeply entrenched drinking culture as Australia's the importance of public support for alcohol control policies is fundamental. Indeed, the Australian National Health Policy on Alcohol [1] highlights the need for public education to

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raise support for control measures. In itself, this is a clear acknowledgement that public support for alcohol control policies is likely to increase their chance of success. Policies without widespread popular support are unlikely to succeed and, as noted by Room [2], are likely to be at least partly subverted.

Despite this there have been few studies of public support for alcohol control policies, either in Australia or overseas, which is surprising given the controversy which issues such as, for example, price increases manage to generate. What literature there is on public support for alcohol control policies is briefly reviewed by Hilton and Kaskutas [3], who also expressed surprise at the limited attention given to this topic by academic researchers. Hilton and Kaskutas noted that in the United States the only national studies of public attitudes to alcohol control policies have been public opinion polls, while the few academic studies have been confined to the local level [3].

We also find it surprising that with the exception of a recent study by Wagenaar and Streff [4], there have been no studies in the United States or Canada of public support for server responsibility and server liability, despite relatively extensive media coverage given these concepts in those countries since the early 1980s.

Wagenaar and Streff [4] surveyed residents in Michigan regarding their opinions on a number of alcohol policy issues, one of which dealt with liability for the commercial servers of alcohol. Because the concept of server liability was found to be not easily understood, extensive testing to determine the most suitable form of question resulted in the following:

If a customer gets drunk, leaves a restaurant or bar, and injures someone in a car crash, do you think that the bartender or the person who served the drinks to the customer should be held accountable for any damages caused by the customer?

Thirty-five per cent of respondents thought that the server should be liable for the damages. When considered in the context of the extent of server liability cases in the United States, as well as the litigious nature of American society, this figure appears to be somewhat low. This might be due, in part, to the concept being difficult to understand, a factor noted by Wagenaar and Streff, and

which led them to call for methodological research into items to tap this concept [4, p. 196].

While we agree with the need for such research, we would also suggest an alternative explanation for this seemingly low level of support. While the American legal system would appear to encourage and reward litigation, especially for those wealthy enough to pursue such a legal course, Wagenaar and Streff's findings may in fact reflect public dissatisfaction with this approach when it affects an 'average' citizen such as a bartender. If taken in conjunction with the 'average' American's strong support for the notion of individual responsibility, then the finding becomes less problematic, and might in fact reflect opposition to litigation as much as it has to do with conceptual difficulties.

Conceptual difficulties in devising easily administered and meaningful items lay behind questions on server liability being omitted from a recent Australian study on public attitudes to alcohol control policies by Flaherty and Homel [5]. Furthermore, during group discussions aimed at testing the comprehensibility of survey items, Flaherty and Homel found little sympathy for server liability among participants who inclined to the view that individuals were largely responsible for their own actions. A number of problems were identified which they saw as having implications for server liability. These are: the importance of not restricting training and sanctions to bar staff, but also ensuring licensees are similarly treated; public education on where responsibility lies in dealing with alcohol problems; and the need to convince the public of the efficacy of community-based initiatives [5].

With this in mind, and because of an increasing interest in server training programmes and research into the licensed drinking environment in Australia [6,7], it was thought opportune to examine the level of public support for alcohol control policies during the course of a broad-based alcohol survey [8]. We were particularly interested in meeting the challenge of 'tapping' public perceptions of the concept of server responsibility and server liability, especially as these concepts are virtually unknown in Australia. We believe that knowing where public opinion lies on these concepts will assist the development of education programmes and alcohol control policies.

Following extensive pre-testing we eventually devised a methodological approach using *vig-*

nettes, to introduce questions on server responsibility and server liability. These questions were designed to measure people's perceptions of who is responsible when a person becomes intoxicated on licensed premises, and whether or not people thought that licensees and barstaff should be liable for damages caused by an intoxicated patron. Knowing where public opinion lies in relation to server responsibility and server liability will inform planning for interventions in licensed drinking settings.

Previous interventions have shown that some aspects of the licensed drinking setting can be successfully restructured to reduce risk and minimize harm. For example, server training has been shown to reduce the number of intoxicated patrons in licensed premises [9] and an increase in server liability cases has resulted in an increase in such training [10,11]. Community policing strategies have also been shown to be an effective intervention in the licensed setting [12].

This paper reports the extent to which public opinion favours the concepts of server responsibility and server liability. Because no background information on the concepts was provided, and because the concepts are virtually unknown in Australia, answers are more likely to reflect individual beliefs as opposed to being based on other factors.

The aim of the study was to complement existing knowledge about drinker characteristics, patterns of consumption, drinking settings and public support for alcohol control policies, with the extent to which the public believe that servers of alcohol are responsible for problems occasioned by persons they served. It is anticipated that the findings will facilitate the planning of alcohol control policies. The targets for such policies will include drinkers, alcohol retailers and their staff, law enforcers and the general public.

Sample and methodology

Data were collected between September and December 1990 from a household survey of persons aged 16 and over in the Perth metropolitan area of Western Australia. The study sample was comprised as follows. During the survey two random samples were obtained, one comprising 1021 persons aged 16 and over, and another comprised of 251 persons aged between 16 and 29

years inclusive. This smaller sample was obtained because of an interest in young drinkers, the results of which are reported elsewhere [13].

Initial analyses of the main sample (1021) found that 18-24 year olds were under-represented when compared to census data for metropolitan Perth. In order to achieve a more representative sample we included all the 139 persons in this age group from the second sample (251). This resulted in an effective sample size of 1160, and at the same time achieved a closer representation of 18-24 year olds with census data. We were able to undertake such a procedure because the questions used, and the process involved in collecting the data were identical and, furthermore, both samples were random.

Design of the survey for both samples was undertaken by the Australian Bureau of Statistics (ABS). Sixty-four Census Collectors Districts (CCD) out of a total of 1720 drawn from the 1986 National CCD's designated for the Perth Statistical Division were selected by the ABS. This rate of sampling is equivalent to that undertaken by ABS when conducting major household surveys, therefore we are confident the sample is representative of the Perth metropolitan area.

Because we were interested in contacting only one respondent per household, the sample was derived by systematic selection to ensure probability proportional to size. The measure of size used was the total number of target persons in each CCD, that is persons aged 16 and over, or aged 16-29 years, depending on the sample. Another factor taken into account was to ensure the sample was representative of socio economic status. Twenty dwellings were randomly selected within each CCD, and respondents were selected on the basis of the person whose birthday fell closest to the day of interview. Only private dwellings were selected. Hotels, hospitals, schools and business premises were excluded.

Data were collected by means of a questionnaire designed by the authors, and was undertaken by a team of eight experienced market research interviewers. All questions were extensively field tested prior to the survey. Three call backs were allowed for, after which a letter was left inviting the target householder to contact the survey team to arrange a suitable time for an interview. Only when this failed to elicit any response were the interviewers permitted to substitute another dwelling. Calcula-

lated from a base of all target respondents actually contacted, a response rate of 68.4% was achieved.

A 6.3% ($n = 80$) validation of completed questionnaires was undertaken which involved re-interviewing at dwellings where some discrepancies were found in respondents' answers, as well as a random selection of dwellings from each of the eight interviewer areas.

The data were weighted in order to adjust for the greater proportion of women in the sample and also to correct for the bias towards single person households resulting from interviewing only one person per household where contact was made. The weighting on sex was achieved by using a factor of 0.91 to weight female responses and a factor of 1.09 to weight male responses. The weighting to correct for the number of persons per household was determined empirically. A factor of $(1 = (n - 1) * 0.2)$ was found to achieve the closest approximation to census data on other key demographic variables (age, marital status) where $n =$ number of persons per household who qualified to be interviewed. That is, aged 16 and over, or aged 16–29, depending on the sample. Percentages and statistical analyses reported here are based on these weightings, while the actual sample numbers reported are unweighted, which is the method adopted by Wagenaar and Streff [4] when reporting their findings on a similar question. Overall, when compared to the 1986 Census returns, a highly representative sample was obtained after weighting.

Measures

Respondents were asked to answer a series of questions after having first read the following short vignette which was presented them in two parts.

John decides to have a drink with a couple of friends on his way home from work. When he arrives at the pub his friends Anne and Steve are buying beer in jugs. John doesn't want to drink much so decides to buy his own drinks. The barstaff clear away the empties promptly and always ask if they want more drinks. Before John realises it he has lost track of the number of beers he has had in the last hour, but still decides to drive home. On the way home he is pulled over for a random breath test and is found to be over 0.08.

There followed two questions:

Do you think that the barstaff at the pub are *partly* responsible for John exceeding the legal limit?

Do you think that the licensee of the pub is *partly* responsible for John exceeding the legal limit?

For each question respondents were asked to indicate their answers on a five-point scale—Yes, definitely/Yes, probably/Not sure/Probably not/Definitely not.

The story then continued:

Back at the pub, Anne and Steve are still drinking and it is now clear that they are obviously drunk. The barstaff continue to serve them alcoholic drinks for the next hour. Anne decides to leave and risks driving the short distance home. On the way home she reacts too slowly to avoid hitting a pedestrian on a crossing. Her blood alcohol level was found to be 0.12. The resulting court case awards 1 million dollars in compensation to the victim who is now permanently crippled.

This was followed by a further four questions utilizing the same five-point scale:

Do you think that continuing to serve someone who is obviously drunk may increase the risk of them having an accident?

Do you think that the licensee of the pub should be made to pay some compensation to the injured victim?

Do you think that the barstaff of the pub should be made to pay some compensation to the injured victim?

Do you think that Steve was partly responsible for Anne getting drunk?

The term 'compensation' was preferred to 'liable' because the latter is less familiar to Australians than the ubiquitous compensation, or 'compo', which is very much a part of the every-day vernacular in Australia, particularly in relation to workplace accidents. However, when describing the data, 'liable' or 'liability' is used in keeping with the North American literature on server liability.

When conducting a univariate analysis of the data respondents answers were collapsed into Yes/No/Unsure categories, and for the logistical regression, employing the SAS Proc Logist proce-

dure [14], the categorical variable Yes/Not Yes was created by combining No/Unsure.

Results

The results of a univariate analysis allow for a comparison of responses between the total sample, drinkers, non-drinkers and persons with recent (past 2 years) work experience in the sale and service of alcohol.

The data in Table I show that the majority of each category of respondent rejected the notion of any responsibility resting with licensees or barstaff. Overall, only 27.0% and 21.0% respectively believed barstaff or the licensee to be partly responsible. In the case of barstaff being liable to pay some compensation, only 17.0% of all respondents thought they ought to, a figure which was doubled (34.0%) in the case of the licensee.

Large differences were found when comparing categories of respondent. Non-drinkers were much more likely than drinkers to believe that licensees and barstaff are partly responsible when someone becomes intoxicated, and that licensees and barstaff should be partly liable for the actions of an intoxicated customer. Nonetheless, there was overwhelming acceptance by all categories of respondent that continuing to serve intoxicated persons increases the risk of an accident. Furthermore, all categories of respondent were more likely to think that a fellow drinker was partly to blame for someone getting drunk, as opposed to the servers of alcohol being partly to blame (Table I).

It is worth noting that proportionately more persons with experience in the sale and service of alcohol rejected the notion of any responsibility or liability resting with licensees or barstaff, than was the case for the sample as a whole. These respondents were also less likely to believe that continuing to serve intoxicated persons increases the risk of an accident, or that a fellow drinker was partly to blame for someone getting drunk. These were not, however, significant differences when analysed by logistic regression. Furthermore, these results may not have reflected the occupation of the respondents. They are more likely to reflect the fact that almost half this group of respondents were male, and around 75% of the total group were under 30 years of age [8]. Sex and age were found to be strongly associated with negative

responses to the various questions [15, data not reported here], although not significantly so in every case as demonstrated by logistic regression (see below).

These findings pointed to the need for multivariate analyses to investigate the relationship between the categories of respondent, demographic characteristics and the answers (yes v. not yes) to the various questions. Consequently, stepwise, logistic regression was chosen in which sex, age (16-29 v. 30 and over), drinking status (drinker v. non-drinker), experience in the sale of alcohol (yes/no), marital status (married/*de facto* v. not married), education (non-tertiary v. tertiary), employment (employed v. not employed), occupation (white collar v. blue collar) and income ($\leq 30\ 000$ p.a. v. $\geq 31\ 000$) were included in each model as independent variables. The dependent variable for each model was the specific question asked, based on whether or not respondent answered 'yes' or 'not yes'.

The results summarized in Tables 2-7 show that of all the variables entered into each model, drinking status had the greatest influence on whether or not a respondent answered 'yes' in all but two cases. The exceptions being in the case of the question "does continuing to serve alcohol increase risk of accident?", where this variable was not significant (Table 4), and in the case of the question "should the licensee be made to pay some compensation to the injured victim?", where age was more significant (Table 5). Overall, these results indicate that non-drinkers were significantly more likely than drinkers to agree with four of the five propositions. The odds ratio indicates that non-drinkers were between two and three times more likely to answer 'yes' than were drinkers.

Demographic variables which we found to be strongly associated with 'yes' answers, but not in every instance, were sex, age and employment. That is, women, (except in the case of the question "Do you think that Steve was partly responsible for Anne getting drunk?"—Table 7), persons aged over 30 years and, in two instances, employed persons, were significantly more likely to answer 'yes' to the various questions, and with similarly strong predictive powers as was the case for drinking status (Tables 2-6). None of the remaining independent variables reached the required level of significance ($p < 0.05$) for the model.

Table I. *Public perceptions of server responsibility and server liability*

	Total sample (<i>n</i> = 1160) %	Drinkers (<i>n</i> = 872) %	Non-drinkers (<i>n</i> = 288) %	Alcohol trade (<i>n</i> = 101) %
Barstaff partly responsible				
Yes	27.5	21.3	43.5	26.5
No	68.0	74.2	51.8	68.9
Unsure	4.5	4.5	4.6	4.6
Licensee partly responsible				
Yes	21.4	16.4	36.5	16.3
No	72.1	78.2	55.0	75.5
Unsure	6.5	5.4	8.5	8.2
Continuing to serve a person who is intoxicated increases the risk of an accident				
Yes	92.4	92.2	95.3	84.2
No	4.9	5.7	2.1	6.9
Unsure	2.8	2.1	2.6	8.9
Licensee should pay some compensation				
Yes	34.4	31.0	46.0	25.7
No	46.5	50.5	33.0	56.9
Unsure	19.2	18.5	20.9	17.4
Barstaff should pay some compensation				
Yes	16.8	14.2	25.7	10.8
No	65.1	69.2	51.3	74.6
Unsure	18.0	16.6	23.0	14.6
Co-drinker was partly responsible for other drinker getting drunk				
Yes	49.4	47.9	56.6	44.0
No	38.7	39.2	35.6	39.8
Unsure	11.9	12.9	7.8	16.2

In the case of the question "do you think that Steve was partly responsible for Anne getting drunk?", (Table 7) men were more likely than women to answer 'yes'.

Discussion

Overall we found only minimal agreement in the general community for servers of alcohol being held partly responsible for persons becoming

intoxicated. We found even less agreement for the concept of server liability. We believe there are two possible reasons for this. First, because the concepts of server responsibility and, more importantly, server liability have, until now, not been formally articulated in Australia, we were asking people to express an opinion on concepts outside their immediate knowledge. As a consequence it may well be the case, as suggested by others [4,5], that these concepts were simply too difficult

Table 2. Are bar staff partly responsible?

Variable	<i>n</i>	Dependent variable: 0 = yes (<i>n</i> = 328) 1 = no (<i>n</i> = 832)			Odds ratio	95% Confidence Interval		<i>R</i>
		Parameter estimate	Standard error	<i>p</i>		Lower	Upper	
Drinking status								
0 = drinker	872							
1 = non-drinker	288	0.9129	0.1347	0.00	2.49	1.91	3.24	0.23
Age								
0 = ≤29	416							
1 = ≥30	744	0.3577	0.1321	0.00	1.43	1.10	1.85	0.10
Sex								
0 = male	509							
1 = female	651	0.3534	0.1265	0.00	1.42	1.11	1.83	0.10
Employed								
0 = yes	633							
1 = no	527	0.2767	0.1267	0.02	1.32	1.03	1.69	0.08
Constant	—	-1.7833	0.1370	0.000	—	—	—	

Table 3. Is licensee partly responsible?

Variable	<i>n</i>	Dependent variable: 0 = yes (<i>n</i> = 257) 1 = no (<i>n</i> = 903)			Odds ratio	95% Confidence Interval		<i>R</i>
		Parameter estimate	Standard error	<i>p</i>		Lower	Upper	
Drinking status								
0 = drinker	872							
1 = non-drinker	288	1.0638	0.1397	0.00	1.06	0.81	1.40	0.27
Age								
0 = ≤29	416							
1 = ≥30	744	0.4653	0.1448	0.00	1.59	1.20	2.11	0.13
Constant	—	-1.9200	0.1292	0.000	—	—	—	

Note: The apparent anomaly in the figures reported for 'drinking status', i.e., $p = 0.00$ and a confidence interval figure lower than 1.00 is probably a consequence of interaction with the age variable.

for respondents to grasp, particularly in the time taken to respond to the questionnaire.

We also recognize, however, that it may also be the case that respondents had few problems in comprehending the concepts. They may have simply answered the questions spontaneously, and the fact that they were generally conservative in

their responses need not necessarily reflect any conceptual difficulties.

Second, the trend of the answers, as indicated by many written comments on questionnaires by respondents, shows that the majority of people believe in the notion of individual responsibility, and so find it difficult to conceive of the servers of

Table 4. Does continuing service increase risk of an accident?

Variable	n	Dependent variable: 0 = yes (n = 1071) 1 = no (n = 89)			Odds ratio	95% Confidence Interval		R
		Parameter estimate	Standard error	p		Lower	Upper	
Age								
0 = ≤29	416							
1 = ≥30	744	1.1802	0.2103	0.00	3.25	2.15	4.91	0.34
Sex								
0 = male	509							
1 = female	651	0.4127	0.2076	0.04	1.51	1.00	2.27	0.12
Constant	—	1.7000	0.1518	0.000	—	—	—	

Table 5. Should the licensee pay some compensation?

Variable	n	Dependent variable: 0 = yes (n = 407) 1 = no (n = 753)			Odds ratio	95% Confidence Interval		R
		Parameter estimate	Standard error	p		Lower	Upper	
Drinking status								
0 = drinker	872							
1 = non-drinker	288	0.5760	0.1279	0.00	1.78	1.38	2.28	0.15
Age								
0 = ≤29	416							
1 = ≥30	744	0.4511	0.1207	0.00	1.57	1.24	1.99	0.13
Constant	—	-1.0812	0.1033	0.000	—	—	—	

alcohol being responsible for someone becoming intoxicated. At the same time, however, half of those surveyed were prepared to allow that a fellow drinker might be responsible. In other words pressure from a peer or peers is seen as a more significant factor than pressure from the servers of alcohol. Flaherty and Homel [5] found that in focus group discussions around the concept of server liability, there was little sympathy for the concept because participants were of the view that responsibility lies with the individual drinker.

Viewed one way the findings reported here appear somewhat anomalous to others in the survey [8, not reported here]. For example, around 90% support was found for training licensees and bar staff in responsible serving practices, and for bar staff to undertake responsible practices, such as not continuing to serve obviously intoxicated

customers. These results appear to be consistent with the finding that over 90% of respondents believe that continuing to serve an intoxicated person increases the risk of an accident (Table I).

Viewed another way, however, there may be no anomaly. It may simply be the case that most respondents rejected concepts which they saw as somewhat 'radical', in this instance the notion of civil liability, preferring instead to support better known 'conservative' options, such as education and training, as a means of preventing alcohol-related problems.

In other words, respondents agreed there is a causal link between excessive consumption and the risk of harm, and strongly support policies which could reduce this risk. At the same time, however, they were not prepared to allow that the servers of alcohol are partly responsible for contributing to

Table 6. Should the bar staff pay some compensation?

Variable	n	Dependent variable: 0 = yes (n = 206) 1 = no (n = 954)			Odds ratio	95% Confidence Interval		R
		Parameter estimate	Standard error	p		Lower	Upper	
Drinking status								
0 = drinker	872							
1 = non-drinker	288	0.6948	0.1513	0.00	2.00	1.49	2.69	0.18
Age								
0 = ≤29	416							
1 = ≥30	744	0.4862	0.1563	0.00	1.63	1.20	2.21	0.14
Constant	—	-2.0796	0.1398	0.000	—	—	—	

Table 7. Is a fellow drinker partly responsible?

Variable	n	Dependent variable: 0 = yes (n = 572) 1 = no (n = 588)			Odds ratio	95% Confidence Interval		R
		Parameter estimate	Standard error	p		Lower	Upper	
Drinking status								
0 = drinker	872							
1 = non-drinker	288	0.3451	0.1275	0.00	1.41	1.10	1.81	0.09
Sex								
0 = male	509							
1 = female	651	-0.2940	0.1097	0.01	0.74	0.60	0.92	-0.08
Employed								
0 = yes	633							
1 = no	527	0.2356	0.1115	0.03	1.26	1.02	1.57	0.07
Constant	—	-0.0408	0.0885	0.644	—	—	—	

this risk, or that they should be held liable should an accident occur.

This being the case we agree with the observation made by Flaherty *et al.* [16] of the need to convince the public to take a broad population perspective in regard to problems resulting from alcohol use. In this regard there is clearly a need for extensive education to convince the public that excessive alcohol consumption and the resulting harm is not merely the responsibility of the individuals concerned, but is also the responsibility of the promoters, retailers and servers of alcohol. The fact that favourable responses for the concepts of server responsibility and server liability were weakest among drinkers, particularly those aged 18-24 years, especially young males, and among

both males and females with experience in the sale of alcohol, indicates there is a need to target education programs to these groups.

Finally, the study has provided useful information on people's perceptions of server responsibility and server liability. The low level of support for these concepts ought to be a warning to prevention researchers and policy makers to proceed cautiously in advocating them so as not to antagonize key elements of the alcohol industry. This is particularly so as there are encouraging signs of support from the hospitality industry for training in responsible serving practices [7,17]. These initiatives may well have far-reaching implications should server responsibility and server liability ever become legal issues in Australia to

the extent observed in Canada and the United States. Should this occur, then it is imperative that we continue with surveys such as that reported here, so that we might measure shifts in public opinion on these issues. If repeated periodically, such surveys can assist in developing alcohol control policies at the most opportune time. Periodic surveys also provide a useful measure for evaluating the efficacy of any policy changes or prevention strategies over time. In this regard we believe the survey on which this study was based should prove to be a useful model for similar surveys, both in Perth, and in other large cities in Australia.

Acknowledgements

We gratefully acknowledge the support given by the following: the Criminology Research Council for providing the grant to conduct the research survey on which this paper is based; the Australian Bureau of Statistics for their extensive advice on the sampling methods used in the survey; and Mr Michael Philips, Head, Epidemiology and Biostatistics at the School of Public Health, Curtin University, who advised on the statistical methods used for the analyses reported in this paper.

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